

Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 L-03 OES-06 CIAE-00 DODE-00 NSAE-00
NSCE-00 SSO-00 USIE-00 INRE-00 FEA-01 ACDA-07 AGRE-00
AID-05 CEA-01 CEQ-01 CG-00 CIEP-01 COME-00 DLOS-06
DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-01
INR-07 INT-05 IO-13 JUSE-00 NSC-05 NSF-01 OMB-01
PA-01 PM-04 PRS-01 SP-02 SS-15 SAL-01 /115 R

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APPROVED BY EUR:RDVINE

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA NIACT IMMEDIATE

C O N F I D E N T I A L STATE 310498

E.O. 11652: GDS

TAGS: US, CA, EFIS

SUBJECT: US-CANADA BOUNDARY/FISHERIES NEGOTIATIONS

1. AMBASSADOR WARREN CALLED ON ASSISTANT SECRETARY HART-
MAN DECEMBER 23 AND LEFT AIDE MEMOIRE CONCERNING US
FISHING OFF CANADA AFTER JANUARY 1. FULL TEXT OF AIDE
MEMOIRE IS SET FORTH BELOW.

2. BEGIN TEXT: THE TWO HUNDRED MILE FISHERIES JURISDIC-
TIONS OF CANADA AND OF THE UNITED STATES OF AMERICA WILL
COME INTO EFFECT ON JANUARY 1 AND MARCH 1, 1977
RESPECTIVELY.

AS THE DEPARTMENT OF STATE IS AWARE, NEGOTIATIONS HAVE
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BEEN UNDERWAY FOR SOME TIME BETWEEN CANADIAN AND UNITED
STATES OFFICIALS TO WORK OUT BOTH INTERIM AND LONG-TERM
FISHERIES ARRANGEMENTS TO GOVERN FISHERIES ZONES.
SEPARATE NEGOTIATIONS HAVE ALSO BEEN UNDERWAY ON MARITIME
BOUNDARY DELIMITATION WHICH WOULD INTER ALIA ESTABLISH
THE LATERAL LIMITS OF OUR EXTENDED FISHERIES ZONES

UPON AN AGREED BASIS. UNFORTUNATELY, AGREEMENT HAS NOT YET BEEN REACHED EITHER ON INTERIM OR LONG-TERM FISHERIES ARRANGEMENTS OR ON MARITIME BOUNDARY DELIMITATION.

WITH RESPECT TO THE QUESTIONS OF INTERIM AND LONG-TERM FISHERIES ARRANGEMENTS, THE CANADIAN AUTHORITIES HAVE AGREED THAT, IN VIEW OF THE FACT THAT MUTUALLY ACCEPTABLE FISHERIES AND BOUNDARIES ARRANGEMENTS MAY NOT YET BE IN PLACE AS OF JANUARY 1, 1977 WHEN CANADA'S EXTENDED FISHERIES JURISDICTION COMES INTO EFFECT, CANADA WILL, FOR THE TIME BEING, WAIVE THE REQUIREMENT FOR UNITED STATES FISHING VESSELS TO OBTAIN CANADIAN LICENCES WHEN ENGAGED IN PURSUING CURRENT FISHERIES ACTIVITIES IN THE PROPOSED CANADIAN FISHERIES WATERS, AND WILL EXERCISE RESTRAINT AS APPROPRIATE IN THE ENFORCEMENT OF CANADIAN LAWS AGAINST UNITED STATES VESSELS AND FISHERMEN IN THE PROPOSED CANADIAN FISHERIES WATERS, ON THE UNDERSTANDING THAT THE UNITED STATES AUTHORITIES WILL ACT IN A SIMILAR MANNER ON AND AFTER MARCH 1, 1977 WITH RESPECT TO CANADIAN VESSELS AND FISHERMEN ENGAGED IN PURSUING CURRENT FISHERIES ACTIVITIES IN THE PROPOSED UNITED STATES FISHING ZONE, IN THE EVENT THAT THERE HAS BEEN NO AGREEMENT ON INTERIM BILATERAL OR PERMANENT FISHERIES ARRANGEMENTS BY THE DATE OF THE COMING INTO FORCE OF THE UNITED STATES FISHERIES MANAGEMENT AND CONSERVATION ACT. ACCORDINGLY ATTACHED TO THIS NOTE IS A COPY OF THE CANADIAN REGULATIONS ENTITLED "THE TRANSITIONAL UNITED STATES FISHING VESSEL LICENCE EXEMPTION REGULATIONS."

THE CANADIAN AUTHORITIES WILL CONTINUE TO PURSUE NEGOTIA-
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TIONS IN BOTH FISHERIES AND MARITIME BOUNDARIES ISSUES IN THE SPIRIT OF THE TALKS BETWEEN THE CANADIAN SECRETARY OF STATE FOR EXTERNAL AFFAIRS AND THE UNITED STATES SECRETARY OF STATE AND THE LONG STANDING FRIENDSHIP AND COOPERATION WHICH HAS CHARACTERIZED CANADA-UNITED STATES RELATIONS. END TEXT (COPY OF REFERENCED REGULATIONS BEING POUCHED.)

3. IN PRESENTING AIDE MEMOIRE, WARREN SAID GOC LOOKS FORWARD TO RESUMPTION OF FISHERIES NEGOTIATIONS ON JANUARY 17 WHICH IT RECOGNIZES WILL REQUIRE MAJOR EFFORT IN THE SPIRIT OF THE OCTOBER 15 DISCUSSIONS BETWEEN SECRETARIES JAMIESON AND KISSINGER. THE "MUTUAL FORBEARANCE" PROPOSED IN THE AIDE MEMOIRE IS AN EFFORT TO DEAL WITH THE SITUATION WHILE FISHERIES TALKS PROCEED. CANADIAN FISHERIES EXPERTS ARE PREPARED TO MEET AT SHORT NOTICE TO DISCUSS DETAILS PERTAINING TO US FISHING.

4. IN RECEIVING THE AIDE MEMOIRE HARTMAN AGREED THAT THE FISHERIES NEGOTIATIONS ARE IMPORTANT. HE OBSERVED, HOWEVER, THAT SOME MISUNDERSTANDING APPARENTLY PERSISTS

WITH REGARD TO BOUNDARY TALKS. WE UNDERSTOOD AFTER THE OCTOBER 15 JAMIESON/KISSINGER MEETING THAT BOUNDARY DISCUSSIONS BETWEEN THE LAWYERS WOULD PROCEED, AND INDEED IN TALKING WITH THE SECRETARY IN BRUSSELS EARLIER THIS MONTH JAMIESON SEEMED TO BE UNDER THE IMPRESSION THAT SUCH TALKS WERE PROCEEDING. IN FACT, HOWEVER, THE CANADIAN LAWYERS SAY THEY HAVE NO AUTHORITY TO DISCUSS BOUNDARY ISSUES. HARTMAN EXPRESSED THE HOPE THAT WARREN WILL CONVEY TO JAMIESON THAT WE ARE ANXIOUS TO SEE THE BOUNDARY DISCUSSIONS PROCEED. WARREN AGREED TO DO SO.

5. DEPUTY LEGAL ADVISOR FELDMAN POINTED OUT THAT US AGREEMENT TO "MUTUAL FORBEARANCE" OUTSIDE THE DISPUTED AREA WOULD REQUIRE FURTHER CONGRESSIONAL ACTION BUT CONFIDENTIAL

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RECIPROCAL MUTUAL FORBEARANCE IN THE DISPUTED AREA ONLY WOULD BE POSSIBLE UNDER EXISTING LEGISLATION. HE REITERATED THE US NEED TO MAKE PROGRESS ON THE BOUNDARY ISSUE AS WELL AS FISHERIES.

6. IN A SEPARATE MEETING CANADIAN EMBOFF CLARK LEFT WITH FELDMAN A DIPLOMATIC NOTE REGARDING THE BOUNDARY QUESTION. (COPY OF THE NOTE AND RELATED MATERIALS BEING POUCHED.) CANADIAN NOTE RESERVES GOC POSITION REGARDING US PUBLISHED LINES AND SETS FORTH FORMAL CANADIAN POSITION. HOWEVER, GOC NOTE GOES ON TO SAY "WHILE CANADA HAS REFRAINED FROM ASSERTING JURISDICTION BEYOND THE EQUIDISTANCE LINE FOR THE DELIMITATION OF THOSE MARITIME BOUNDARIES BETWEEN CANADA AND THE UNITED STATES NOT ALREADY DELIMITED BY TREATY OR ARBITRATION, IT RESERVES ITS RIGHTS WITH RESPECT TO THOSE AREAS BEYOND THE EQUIDISTANCE LINE IN THOSE CASES WHERE THERE EXIST CIRCUMSTANCES COMPARABLE TO THOSE ON WHICH THE UNITED STATES CLAIM IN THE GULF OF MAINE AREA IS BASED." ATTACHED TO THE NOTE ARE CHARTS WHICH PURPORT TO BE BASED ON THE SAME PRINCIPLES THAT THE US IS ADVOCATING, AND WHICH "WOULD BE RELEVANT IN THE EVENT OF A REFERENCE OF THIS QUESTION TO THIRD PARTY SETTLEMENT." CHART FOR GULF OF MAINE AREA SHOWS LINE THROUGH GREAT SOUTH CHANNELSOUTH OF GEORGES BANK; CHART OF JUAN DE FUCA AREA SHOWS A LINE SOUTH OF EQUIDISTANCE FOLLOWING THE JUAN DE FUCA CANYON; LINE OFF DIXON ENTRANCE IS SEAWARD EXTENSION OF A-B LINE; AND LINE IN ARCTIC IS INEXPLICABLY REFERRED TO AS A GENERAL DIRECTION OF THE COAST EQUIDISTANCE LINE CREATING A NEW LINE

WELL TO THE WEST OF THE 141ST MERIDIAN. COMMENT: IT
SEEMS REASONABLY CLEAR THE GOC IS TRYING TO CREATE
NEGOTIATING OR ADJUDICATION SCENARIO THAT WILL RESULT
IN ORIGINAL AND FORMAL GOC BOUNDARY POSITIONS AS BEING
THE OBVIOUS COMPROMISE SOLUTIONS. DEPT EXPECTS TO

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FORMALLY REPLY TO GOC NOTE WITHIN A FEW DAYS. END
COMMENT.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, AIDE MEMOIRE, NEGOTIATIONS, FISHING AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE310498
Document Source: CORE
Document Unique ID: 00
Drafter: DBLAKEMORE:SLU
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760471-0677
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761215/aaaaamzs.tel
Line Count: 184
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 12 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 APR 2004 by ellisoob>; APPROVED <02 AUG 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-CANADA BOUNDARY/FISHERIES NEGOTIATIONS
TAGS: EFIS, US, CA
To: OTTAWA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006